



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,877	03/30/2004	Teresa Mead	017242-010500US	5757

20350 7590 05/18/2006

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,877

Applicant(s)

MEAD ET AL.

Examiner

Joseph F. Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-31 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-25, 28-31 and 36-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-25, 31, 36, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linge U.S. Patent No. 5,675,853 to Linge in view of U.S. Patent No. 5,546,620 to Matthews.

Linge discloses a baby holding device that is basically the same as that recited in claims 20-25, 31, 36, and 40 except that the arms do not face each other. See Figures 1-3 of Linge for the teaching that the baby holding device has a pillow 10 (see Fig. 1) with a medial region 32 and two opposed curved arms extending from the medial region that define an inner well and include rounded ends, a securing system 52 operably coupled to the pillow, a center holding strap 62 of the securing system, side straps 56,58 of the securing system extending from each arm, buckle connectors 60 (hook and loop fasteners that may be buckles, see column 6, line 43) on the side straps, a seat disposed across the well region and including a fabric coupled to the arms and the medial region wherein the center strap is coupled to the seat to permit the baby's feet to hang from the seat, and the pillow includes a fabric shell 38 encasing a filling material (see column 4, lines 59-61). Matthews shows a baby holding device similar to that of

Linge wherein the device has a pillow (see Fig. 1) with a medial region 14 and two opposed curved arms 16,18 extending from the medial region that define an inner well region 30 such that the curved arms have rounded ends 20,22 being spaced apart and generally face each other. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Linge such that the well widens as it extends away from the rounded ends of the curved arms such that the arms generally face each other, such as the device disclosed in Matthews. One would have been motivated to make such a modification in view of the suggestion in Matthews that the arms facing each other provide a well region that supports an infant in multiple orientations - supine orientation or a prone position.

3. Claims 28-30 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linge in view of Matthews, as applied to claims 20-25, 31, 36, and 40 above.

Linge, as modified, discloses a baby holding device that is basically the same as that recited in claims 28-30 and 37-39 except that the ranges of the height and width of the medial region and arms are not specified, as recited in the claims. Although the height and width ranges are not specifically recited, modifying the height and width ranges would have been obvious at the time of Applicant's invention because the use of optimal or workable ranges discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the height and width of the medial region and arms since the Applicant has not

Art Unit: 3636

disclosed that having the specific ranges solves any stated problem or is for any particular purpose and it appears that the medial region and arms would perform equally well with any well known height and/or width used in the art.

Response to Arguments

4. Applicant's arguments with respect to claims 20-25, 31, 36, and 40 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 28-30 and 37-39 have been fully considered but they are not persuasive. Applicant states that modification of the teachings of Linge must be based on some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art. Examiner contends that modifying the dimensions of the device's medial region, arms, and well region is knowledge generally available to one of ordinary skill in the art. Applicant argues that one of ordinary skill would not have been modified the dimensions of the device because Linge does not teach a curved configuration. However, nothing in the claims 28-30 and 37-39 recites or implies that the dimension ranges relates to a curved configuration. See the above rejection for motivation to modify the device of Linge to have a curved configuration.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 3636

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



JE

May 14, 2006



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600